

REMARKS

Applicant's undersigned attorney would like to thank the Examiner for the courteously conducted interview on Tuesday, July 17, 2007. In light of the discussions during the interview and the following discussion, Applicant requests that the Examiner reconsider the rejection in the Official Action Dated May 21, 2007.

§112 Rejection

Claims 95-99 were rejected under §112 as not having support in the application. As discussed with the Examiner, the drawings clearly show that the length of the trochlear groove portion 76 is at least 1/4 of the length of the trochlear groove portion (see e.g. Fig. 5). Additionally, claim 3 as originally filed recites that the first and second wings of the intercondylar notch portion have a length that is at least approximately one quarter the length of the trochlear groove portion. Since claim 3 along with Fig. 5 were part of the original disclosure, claims 95-99 are supported by the original application. Accordingly, Applicant requests that the Examiner reconsider the rejection of claims 95-99 under §112.

§102(e) Rejection based on Merchant 6,616,696

The Examiner rejected claims 78 and 81-83 as anticipated by Merchant '696.

Claim 78 recites a second portion that is configured to overlie the intercondylar notch. Claim 78 has been amended to recite that the second portion has a length that is greater its width. Since Merchant does not teach such a feature, Applicant requests that the Examiner reconsider the rejection of claim 78. Claims 81-83 depend from claim 78, so that they are patentable over Merchant for at least the same reasons.

§102(e)/103(a) Rejection based on Aram 11/171,180

The Examiner rejected all of the pending claims as anticipated by or obvious over Aram '180.

Aram '180 was filed almost a year after Applicant's filing date, but claims priority to provisional application no. 60/535,967 filed two weeks before Applicant's filing date. Applicant is also a named inventor of provisional application no. 60/535,967.

Additionally, concurrently filed with this Response is a Petition to Accept Unintentionally Delayed Claim Under 35 U.S.C. §119. In light of the petition, the present application claims priority to the same provisional application to which Aram claims priority. In light of the priority claim and the fact that Applicant filed almost a year prior to Aram '180, Aram '180 is not prior art against Applicant.

§102(b) Rejection based on Aubaniac WO87/02882

The Examiner rejected claims 14-16, 18-24, 50-58 and 69-94 as anticipated or obvious over Aubaniac.

Claim 14 recites the following:

14. A knee prosthesis for covering a portion of a patient's patella, and trochlear groove and intercondylar notch of the femur, comprising:
a patellar prosthesis configured to cover a posterior surface of a patella; and
a femoral prosthesis comprising:
a body having a posterior surface configured to cover a portion of the trochlear groove and an anterior surface forming a groove that is cooperable with the posterior surface of the patellar prosthesis;
and one of either:
a medial extension projecting away from a distal end of the body
configured to extend along a medial edge of the intercondylar notch; and
a lateral extension projecting away from a distal end of the body
configured to extend along a lateral edge of the intercondylar notch;
wherein the medial or lateral extension is configured so that the femoral prosthesis has an edge that terminates along a surface configured to form an articular surface between the patella and the femur without substantially overlying an articular surface between the femur and the tibia; and
wherein the medial or lateral extension has a length and a width and the length is substantially greater than the width.

As can be seen, claim 14 has been amended to recite that either the medial or the lateral extension has a length that is greater than its width. Since Aubaniac does not teach or suggest such a feature, claim 14 is patentable over Aubaniac. Claims 15-16 and 18-24 depend from claim 14 and are patentable over Aubaniac for at least the same reasons.

Similarly, claim 50 has been amended to recite that the intercondylar notch portion of the device has a length that is greater than its width.. Claims 51-58 depend from claim 50 and are patentable for at least the same reason. Claims 59 and dependent claims 60-68 were not rejected over Aubaniac.

Claim 69 recites the following:

69. A patello-femoral prosthesis, comprising:
 - a femoral prosthesis, comprising:
 - a trochlear groove portion having a posterior surface configured to overlie a portion of a trochlear groove and an anterior surface forming a groove;
 - an intercondylar notch portion connected with the trochlear groove portion, wherein the intercondylar notch portion has outer edges that terminate so that the intercondylar notch portion is configured to overlie at least a portion of the intercondylar notch without substantially extending over an articular surface of a condyle, wherein the intercondylar notch portion forms a terminal portion of the femoral prosthesis;
 - wherein the trochlear groove portion tapers inwardly from a medial and lateral direction to form a narrow waist adjacent the intercondylar notch portion; and

a patella portion configured to replace a surface of a patella and cooperate with the groove in the trochlear groove portion.

As can be seen, claim 69 has been amended to recite that the trochlear groove portion of the prosthesis tapers inwardly forming a narrow waist adjacent the intercondylar notch portion. As discussed with the Examiner, Aubaniac does not teach or suggest such a feature. Accordingly, claim 69 and dependent claims 70-76 are patentable over Aubaniac.

As discussed above in connection with the Merchant reference, claim 78 has been amended to recite that the second portion configured to overlie the intercondylar notch has a length that is greater than its width. Accordingly, claim 78 and dependent claims 79-83 are patentable over Aubaniac.

Claim 84 has been amended to recite the following:

84. A knee prosthesis for covering a portion of a patient's patella, and trochlear groove and intercondylar notch of the femur, comprising:
a patellar prosthesis configured to cover a posterior surface of a patella; and
a femoral prosthesis comprising:
a body having a posterior surface configured to cover a portion of the trochlear groove and an anterior surface forming a groove that is cooperable with the posterior surface of the patellar prosthesis;
a medial extension projecting away from a distal end of the body configured to extend along a medial edge of the intercondylar notch; and
a lateral extension projecting away from a distal end of the body configured to extend along a lateral edge of the intercondylar notch;
wherein at least one of the medial extension and the lateral extension has a length that is at least approximately one quarter the length of the body portion;
a separate condyle prosthesis configured to cover an articular surface of a condyle, wherein the condyle prosthesis has an inner edge configured to cooperate with an outer edge of the either the medial or lateral extension.

Claim 84 has been amended to incorporate features from dependent claim 99 which was not rejected under Aubaniac. As the Examiner acknowledged, Aubaniac does not teach or suggest a device having an extension configured to extend along the intercondylar notch and being at least one quarter the length of a body configured to cover a portion of the trochlear groove. Additionally, as discussed above, the features in claim 99 find support in the application as filed, including claim 3 and Fig. 5. Accordingly, claim 84, along with dependent claims 85-94 are patentable over the prior art of record.

In light of the foregoing, Applicant believes that this application is in form for allowance. The Examiner is encouraged to contact Applicant's undersigned attorney if the Examiner believes that issues remain that would prevent the Examiner from examining the claims.

Respectfully submitted,

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